

REMARKS

In the Office Communication, the Examiner stated that Applicants failed to elect a single disclosed species, as required by the Restriction Requirement mailed on January 17, 2007. Specifically, page 2 of the Restriction Requirement states that Applicants are required to elect: (1) a single disclosed species from (i) the active ingredient; (ii) an excipient, and (iii) a surface stabilizer. Applicants traverse the species election requirement on the grounds that the search and examination of all of the recited species is not unduly burdensome to the Examiner. In addition, Applicants presume that the species election is made to assist the Examiner in searching the invention, and that the Examiner will follow the procedures delineated in MPEP 809.02(c).

1. Species Election No. 1: Single Active Ingredient

Applicants elect the active ingredient species “COX-2 inhibitor type non-steroidal anti-inflammatory drug” (see claim 51). Claims that read on this elected species include claims 27-55.

2. Species Election No. 2: Single Excipient

Applicants elect the excipient species “pharmaceutically acceptable water-soluble or water-dispersible excipient” (see claim 43). Claims that read on this elected species include claims 27-55.

3. Species Election No. 3: Single Surface Stabilizer

Applicants elect the surface stabilize species “a combination of polyvinyl pyrrolidone (PVP) and sodium lauryl sulfate (SLS)”. No specific surface stabilizers are identified in the pending claims. However, please refer to Example 3, pages 20-21 of the application, which describes the use of a combination of the surface stabilizers PVP and SLS for a nanoparticulate active agent composition. Claims that read on this elected species include claims 27-55.

Applicants now await early and favorable action on the merits. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Conclusion

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date April 10, 2007

By Michele M. Simkin

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5538
Facsimile: (202) 672-5399

Michele M. Simkin
Attorney for Applicants
Registration No. 34,717